NO. 214.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1923.

SUPREME LODGE KNIGHTS OF PYTHIAS,
Plaintiff in Error,

v.

GEORGE O MEYER,
Defendant in Error.

IN ERROR TO THE SUPREME COURT OF THE STATE OF NEBRASKA.

REPLY BRIEF.

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REPLY BRIEF.

The defendant in error bases its argument for affirmance upon the four following propositions:

(a) No federal question.

(b and c) Failure to file supreme statute increasing rates.

(d) Invalidity of statute increasing rates on the ground that plaintiff in error did not have representative form of government.

FEDERAL QUESTION.

Two distinct and separate federal questions are directly involved in this action. Treating them inversely, the validity of the Supreme Statute increasing the rates necessarily challenges the power of the plaintiff in error under the federal statute creating it to increase its rates of insurance. If such federal statute did not clothe the plaintiff in error with the power to enact the statute increasing its rates, then, of necessity, the increase is invalid and cannot be enforced anywhere. A by-law or regulation which is *ultra vires* is not enforceable anywhere against anybody. We do not deem it necessary to argue this question for it has been definitely determined in two cases by this Honorable Court.

Supreme Lodge Knights of Pythias v. Mims, 241 U. S. 574;

Supreme Lodge Knights of Pythias v. Smyth, 245 U. S. 594.

The reasoning of these two cases seems conclusive. The plaintiff in error was chartered to perform a certain duty. By reason of the old rate tentatively fixed by the plaintiff in error it could not perform that duty. It enacted the statute in question increasing the rates so that it could perform its duty. That is the statute, the validity of which is again attacked by the defendant in error. It will be noted that the Honorable Supreme Court of the State of Nebraska declared this statute invalid. It did not refuse to enforce this rate for any other reason. It struck at the very heart of this institution by declaring that its legislation was invalid.

The Supreme Lodge Knights of Pythias was governed throughout its whole history, and is still governed by its Supreme Lodge elected and constituted in the same manner. The federal statute creating the plaintiff in error specifically incorporated the Supreme Lodge "officers and members of the Supreme Lodge Knights of Pythias, and their successors," as the corporation. It gives to the corporation the power to amend its constitution and statutes at pleasure. If the Supreme Lodge of this order was constituted as the stipulation says, then the validity of said statute cannot be questioned. The stipulation (Tr., p. 35) "that the Supreme Lodge of the defendant during the period covered by the pleadings in this case was constituted in accordance with the Supreme Constitution as it existed in 1910 and that all the legislation and statutes were enacted in substantially the same manner."

The federal statute having fixed the character and composition of said Supreme Lodge, said Supreme Lodge is powerless to change it in violation of said federal statute. If said corporation exercised its duty in accordance with said federal statute, which it is admitted it has done, then the specific statute in question, enacted by the same body elected and constituted exactly as its predecessors, cannot be held to be in violation of said federal statute. The creature cannot rise superior to its creator. The Supreme Lodge cannot reconstitute itself in violation of its federal charter and make its governing body something out of accord with the statute creating it.

Said Supreme Statute is either valid or it is invalid as measured by the Federal Statute creating it. Plaintiff in error must perform its duty in accordance with the statute

creating it. It cannot operate in violation of the statute creating it. When it has acted in accordance with said federal statute, then the courts of its domicile, which are the federal courts, will uphold its action. We shall speak of its admission to do business in the state of Nebraska in a subsequent part of this brief. It is also true that its statutes cannot be valid for a part of its membership and invalid as to the remainder. A fraternal order *ex necessitate* cannot impose one set of rates upon some of its members and an entirely different set upon other members in the same situation. A fraternal beneficiary society cannot tender to its Texas member one rate, to its New York members a different rate, and to its Nebraska members a still different rate. Equality of opportunity, of privileges, and of benefits, under the same circumstances, must be accorded by a fraternal society to all of its membership. Its statutes, therefore, are either valid or invalid as to all. Special privileges are obnoxious to the law of fraternal societies.

COMPLIANCE WITH STATE LAW.

The second and third questions raised by defendant in error relate to the filing with the Auditor of Public Accounts of the State of Nebraska of the statute increasing the rates, and will be considered together. The statute of 1897, of Nebraska, authorized foreign fraternal societies to continue doing business in that state upon the filing with the auditor of public accounts a "duly certified copy of its charter and articles of association, and a copy of its constitution and laws certified to by its secretary or corresponding officer, together with an appointment of the Auditor of Public Accounts of this state as a person upon whom process may be served as hereinafter provided." (Plaintiff in Error's Brief, p. 72, § 9.)

It is further provided by said section of said statute that the Auditor of Public Accounts may personally examine into the condition, affairs, character and business matters, accounts and books, and investments of such society at its home office, which examination shall be at the expense of such society.

It is further provided that if said auditor "after such examination is of the opinion that no permit should be granted to such society he may refuse to issue the same."

It is stipulated in the record (Tr., p. 32) that the plaintiff in error was authorized to transact business in said state during the entire period covered by the pleadings.

Section 12 of said Act of 1897 (Plaintiff in Error's Brief, p. 73), provides that "the auditor of public accounts shall, * * * issue to it a permit in writing authorizing it to do business in this state for which certificate and all proceedings connected therewith, such society shall pay to said Auditor of Public Accounts the fee of $20.

The stipulation is that this was all done, which in fact it was. There is no contention whatsoever between the State of Nebraska and the plaintiff in error. There never was.

Said State of Nebraska is not a party to this litigation and never was. It was not a party to the litigation known as the Holt case. That case was brought by the membership of the Fourth Class amongst whom was plaintiff's decedent. This case was brought by the beneficiary of said decedent on his certificate.

The Supreme Statute increasing the rate being valid as to the entire membership, and the state law of Nebraska having been complied with completely, not only as to the

filing of a copy of the charter and of the supreme constitution and statutes, including the one raising the rates, but the insurance fees having been paid and the certificate granted by the state official designated by said statute of 1897 as the person who should on behalf of said state examine into and determine whether the plaintiff in error should be admitted under said state to transact business in said state, duly issued a license therefor to the plaintiff in error.

REPRESENTATIVE FORM OF GOVERNMENT.

We now pass to the fourth question and last raised by the defendant in error, which is that the plaintiff in error did not have when the statute increasing the rates was enacted, "a representative form of government."

The federal statute creating the plaintiff in error did not in terms require it to have and maintain a representative form of government. It did enact that certain officers, naming them, and their successors, officers and members, of the Supreme Lodge Knights of Pythias should constitute the corporation. As the supreme lodge of said order was then constituted as it was in 1910, and is yet, then it must be inferred that a representative form of government was, at least not antagonistic or obnoxious to said federal statute. If it be said that said statute does not command a representative form, nevertheless it sanctions it.

At this point we desire to state that the Honorable Supreme Court of Nebraska in its first decision in this case in the opinion upon petition for rehearing spoke of the decision in the Holt Case (235 Fed. 885, 149 CCA 197), as being governed by a special statute of the State of Indiana.

Said court also in said opinion on petition for rehearing

spoke of the Mims case (241 U. S. 574) as being governed by the statutes of the State of Texas, whereas, as a matter of fact, neither of said statutes, had the remotest thing to do with the decisions of said cases. In the Holt case the statutory laws of Indiana could have had no possible part in said decision, and as a matter of fact did not, for the sole questions raised in said Holt case as shown by the record in this cause (pp. 53-254) relate to the rights of members as fixed by their certificates of insurance and by their legislation and representations.

It was alleged that the increase of rates violated the rights of contract of all fourth class members and were also confiscatory of said certificates of insurance. It was sought on other grounds also to invalidate said rates, and to enjoin the officers from putting them into effect.

An amended answer, in effect, averred that said statute increasing the rates was valid. The reasons for making said enactment were set forth. A cross bill was filed in which said statute increasing rates was again vindicated. (Tr., pp. 249-50.) The validity of said increase of rates was directly put in issue. The Master found the facts especially from the evidence introduced. One of them (p. 210) specially finds that the plaintiff in error did have and did maintain a representative form of government. Said finding (p. 243) found as a fact in favor of the validity of said statute increasing the rates.

The complainant in the Holt Case duly excepted (p. 246) to the finding of the validity of said statute increasing the rates. Said exception and all others were overruled by the court and a judgment rendered in favor of the plaintiff in

error. From said judgment the appeal was taken, resulting in the affirmance of said judgment.

Holt v. Supreme Lodge Knights of Pythias, 235 Fed. 885, 149 CCA 197.

An appeal was then taken to the Supreme Court of the United States and was dismissed by the complainants after the decision in the Mims case (248 U. S. 588).

The controlling question in the present case is, what is the effect of this judgment which is now in full force and effect upon the rights of the plaintiff in this case? It is admitted that she occupied the same relation to the plaintiff in error that the insured would have held, if living. Her rights are measured by his rights and duties.

FEDERAL COURT RULES.

It is argued by the defendant in error that since the Holt case was commenced January 25, 1911, it was governed by old equity rule 38. Old equity rule 38 had nothing to do with parties. Old equity rule 48 (210 U. S. 508, 524) contained the provision that persons not parties to such suit would not be prejudiced by the judgment. Said rules were in force until February 1, 1913. Equity rules of 1912 became effective February 1, 1913, and provide that they "shall govern all proceedings in cases *then pending* or *thereafter brought*," except certain matters not here involved (see Rule 81). Said rule 81 further provides "that all rules heretofore prescribed by the Supreme Court regulating the practice in suits in equity, shall be abrogated when these rules take effect."

Calling the attention of the Court to said Holt case, it was begun January 25, 1911. (Tr., p. 53.) The amended answer was filed February 26, 1912. (Tr., p. 96.) The plaintiff in error's cross bill in said Holt case was filed April 14, 1913 (Tr., p. 125); the answer to said cross bill was filed April 24, 1913. (Tr., p. 204.) The master's report was filed May 24, 1913. (Tr., p. 207.) The judgment was rendered August 8, 1913. (Tr., p. 250.) Said judgment was affirmed on appeal July 18, 1916. (Tr., p. 251.) It, therefore, affirmatively appears that the old equity rules were not in force after February 1, 1913, and that the new equity rules were not in force after February 1, 1913, and that the new equity rules of 1912 governed the decision in the Holt case; and the rights of the parties are to be measured, by said new equity rules.

Said old equity rule 48 and said new equity rule 38 were the subject of a recent opinion of this Honorable Court.

> *Supreme Tribe of Ben Hur v. Cauble*, 255 U. S. 356.

In said Cauble case, it was argued that the federal district courts had no real equity jurisdiction sufficient for class suits; that the decrees entered in such cases merely bound the parties on the record but did not conclude the rights of any other person unless a party named on the record. Mr. Justice Day speaking for the Court put an end to such contention in the following language: "The district courts of the United States are courts of equity jurisdiction, with equity powers as broad as those of state courts. That a class suit of this nature might have been maintained in a state court, and would have been binding

on all the class, we can have no doubt. * * * If the federal courts are to have the jurisdiction in class suits to which they are obviously entitled, the decree, when rendered must bind all of the class properly represented. The parties and the subject-matter are within the court's jurisdiction. It is impossible to name all of the class as parties, where, as here, its membership is too numerous to bring into court. The subject-matter included the control and disposition of the funds of a beneficial organization and was properly cognizable in a court of equity. The parties bringing the suit truly represented the interested class. If the decree is to be effective, *and conflicting judgments are to be avoided*, all of the class must be concluded by the decree."

This remarkably well written opinion seems to us to settle this contention that the defendant in error's decedent was not bound by the decree in the Holt case. It was preeminently a class suit. The members of this class numbered over eleven thousand. (Tr., p. 294.)

Said decedent having been bound by the judgment in the Holt case and his privies being likewise bound with him, the question yet remains whether his said beneficiary can again litigate the question of the validity of said increase of rates and deny that they are applicable to him.

One of the contentions before the Constitutional Convention of 1787 was the adjustment of probable conflicting interests of citizens of the various states. With a wisdom which appears to have provided for all emergencies, article four, section one, of the federal constitution was drawn requiring "full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state; and the congress may, by general laws, pre-

scribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof."

Pursuant to the last provision of said Section 1, Congress, in 1790, enacted substantially what is now Section 905, R. S. U. S., providing that "said records and judicial proceedings so authenticated, shall have such faith and credit given to them in every court within the United States as they have by law or usage in the courts of the state from which they are taken."

The judgment of the District Court of the United States was rendered in Indiana; and under said section 905, R. S. U. S. it has the same validity and implications as a judgment of the state court of Indiana, of equal rank.

> *Hampton v. McConnel*, 3 Wheat. 234, 4 L. Ed. 378;
> *Mills v. Durgee*, 7 Cranch 481, 3 L. Ed. 411;
> *Hartford Life Ins. Co. v. Ibs*, 237 U. S. 662.

Under the Indiana law there has been an unbroken current of authority holding that a judgment of a court having jurisdiction of the parties and the subject-matter conclusively binds the parties to said action or suit not only as to matters especially alleged in the pleadings, but as to all matters which might have been litigated within the issues excluding only set-offs and counterclaims which might constitute independent causes of action.

See cases cited under point 13, p. 41, plaintiff in error's brief.

The question was asked on oral argument whether the defendant in error would be concluded by the judgment in the Holt Case if the Nebraska statute was not specially alleged in the bill of complaint. As heretofore stated, the con-

stitution, Article 4, § 1, requires that the judgment of the District Court of Indiana shall be given full faith and credit in the courts of all other states. The implication of said judgment must be given affect.

Hartford Life Ins. Co. v. Ibs, 237 U. S. 662.

In the Holt case a direct assault was made upon the validity of the Supreme statute increasing the rates. That was the basic question litigated in that cause of action. Upon that question hinged the judgment of the court. If the assault were successful the complainants must win; if unsuccessful, the defendant must win. The court specially found that such legislation was valid and binding, upon the entire membership of the order. This judgment absolutely concludes all parties and their privies. This confessedly being a class suit is binding upon all members of the order.

If the plaintiff in this action could disregard this judgment and again litigate the validity of this Supreme statutes, then there could be no end to the litigation involving such rates. The plaintiff in error would be hopelessly destroyed. If the plaintiff in error should be compelled to relitigate the validity of this increase of rates in every action hereafter brought, it would be useless for the society to undertake to transact business. The litigation would be enormous in volume, and its consequence fatal.

THE CONSTITUTION SUPREME.

Let it be conceded that the defendant in error had the initial right in the trial court to take advantage of the statute of the State of Nebraska rendering the plaintiff in error ineligible to qualify under the Nebraska law.

Let it be conceded further that the state of Nebraska had the right to exclude the plaintiff in error from doing business within said state. Nevertheless, the judgment of the District Court of the United States having jurisdiction of the plaintiff in error and of the parties complainant had the right to enter upon a judicial consideration of the validity of these rates and of their binding character upon the members of this order. The complainants brought the suit. The plaintiff in error here was the enforced defendant. The right of the complainants to be discharged from any obligation under the said new rates was directly and distinctly put in issue. That was the question before the court; and that was the question which the court decided. Its judgment fixed the rights of all parties and their status so fixed by said judgment could not be changed except by an appeal which was unsuccessfully taken. The Federal Constitution provides that this judgment shall be effective and binding upon all parties in every court of the United States. It is not an answer to this contention that the statute of Nebraska provides differently. When there appears to be a conflict between the statutory provisions of the state and any of the provisions of the Federal Constitution, the Constitution prevails. It could not be otherwise. It is a mistake to assert that the decree of the federal court fixed the rights of these parties and then to assert that the rights

fixed in this judgment can be collaterally attacked in some other court. The framers of our Constitution intended to give every party his day in court, but there was a studied provision inserted in our Constitution against giving a party two or more days in court.

SPLITTING CAUSES OF ACTION.

The complainants who were offended at the increase of rates enacted in 1910 had a perfect right to go into the courts of the domicile of this corporation and assert their rights and ask for the proper remedy. They did this. Their alleged rights were shown to be wholly without foundation in law or in fact. The supreme statute in question was held valid. They now seek in a wholly collateral proceeding to disregard this judgment and they claim not to be bound in any respect by reason thereof.

They further allege that there is not even a question of constitutional law involved. They fail to recognize that the District Court of the United States with full jurisdiction of all complainants and of this plaintiff in error fixed the rights of these parties, as to the increase of rates, in 1913, and that said judgment forever settled their said rights upon that date. It must be remembered that any rights that the deceased member now has, existed January 1, 1911, at the time these new rates were put into effect. Those rights, whatever they may have been, could have been alleged in this class suit as a reason for invalidating said Supreme Statute increasing the rates. It might be possible if a present ground of defense which did not exist at the

time this class suit was brought, would not be concluded by the judgment of 1913, but no such rights are involved in this case. All rights asserted here existed on January 1, 1911. If the plaintiff in error violated the state laws of Nebraska, at any time, it did it January 1, 1911, at the time the new rates were put into effect. They have been in effect all over the United States and Canada ever since. The plaintiff in error, as shown by this record, refused to receive the old inadequate rate after January 1, 1911.

The cases illustrating this principle are legion. In *People v. Detroit, etc., R. Co.*, 157 Mich. 144, 121 N. W. 814, it is held that one attacking the validity of the charter of a railroad company must make all of his objections thereto or be forever barred.

In *United States, ex rel. v. City of New Orleans*, 98 U. S. 381, the plaintiff recovered a judgment against the city in an action of debt. Subsequently he filed his application for mandamus against the city officers to compel the levy of a tax to pay said judgment. The city then pleaded that the indebtedness was required by a certain state statute to be paid out of a particular fund. It was held that this question must be raised in the original action and the prior judgment concluded the parties on the subject.

In *Mayor, etc., City of Davenport v. United States, ex rel., Lord*, 76 U. S. 409, 19 L. ed. 704, the plaintiff recovered a judgment against the city in an action on bond issued by the city. Subsequently the plaintiff brought an action in mandamus to effect payment of his judgment. The defendant pleaded, in defense, a statute requiring an election to determine the issuance of bonds, which election was not held.

The court held that such statute constituted a ground of defense in the former action, but was concluded by the judgment.

A case directly in point s *Nauyalis v. Philadelphia, etc., Iron Co.*, 270 Fed. 93, decided by the Circuit Court of Appeals for the Second Circuit. The plaintiff was injured while working in a colliery in Pennsylvania. He brought an action in the state court of New York, charging negligence. There was a directed verdict for defendant. Subsequently, he brought an action for the same injuries in the federal court in Pennsylvania, charging defendant's violation of a state statute of Pennsylvania, which had not been pleaded nor considered in the action in New York. The Circuit Court of Appeals held that he was concluded by the New York judgment.

A still more applicable case is *United States v. California & Oregon Land Co.*, 192 U. S. 355, 48 L. ed. 476, wherein the United States, by its bill, sought to have declared void certain land patents. It was answered that theretofore the United States had filed a bill to have such patents declared void, though for an entirely different reason. Mr. Justice Holmes, speaking for the court, said, in part:

> "But the whole tendency of our decisions is to require a plaintiff to try his whole cause of action and his whole case at one time. He cannot even split up his claim; * * * and, *a fortiori*, he cannot divide the grounds of recovery. * * * The United States was bound then to bring forward all the grounds it had for declaring the patents void, and when the bill was dismissed, was barred as to all by the decree," citing numerous cases.

In the case of *Payne v. New York, etc., R. Co.*, 201 N. Y. 436, it was held, in a very well-considered decision, that the

plaintiff may state as his cause of action, negligence of defendant as at common law, violation of the New Jersey employers' liability act, and the federal employers' liability act, and failing to allege one or all, he is concluded as to all by the judgment rendered on the one or more pleaded.

VIOLATION OF THE STATE LAW.

Much stress is laid upon the charge that the plaintiff in error violated the state law of Nebraska. So did the plaintiff in error, according to the decisions of their Supreme Courts, violate the laws of the state of Texas in the Mims case.

> *Supreme Lodge Knights of Pythias v. Mims*, 241 U. S. 574.

So did the plaintiff in error violate the laws of the state of New York. *Supreme Lodge Knights of Pythias v. Smyth*, 245 U. S. 594. So did the Royal Arcanum violate the laws of the State of New York: *Supreme Council Royal Arcanum v. Greene*, 237 U. S. 531. So did the Hartford Life Insurance Co. violate the laws of the State of Minnesota: *Hartford Life Ins. Co. v. Ibs*, 237 U. S. 662. So did the Hartford Life Insurance Co. violate the laws of hte State of Missouri: *Hartford Life Ins. Co. v. Barber*, 245 U. S. 146. But in all of these cases the state supreme courts failed to give full faith and credit to the respective judgments which was required by our Federal constitution. It should also be remembered in this case that the right of this defendant in error to require the plaintiff in error to have a representative form of government as construed by the Supreme Court of Nebraska, is a private right which she can waive,

or from the exercise of which she may be estopped. This is not an ouster suit brought by the state of Nebraska to expel from its territory an obnoxious corporation. The plaintiff in error, with all due and proper respect to the erroneous decision of the Supreme Court of Nebraska did not violate the laws of said state by the enactment of the increase of rates herein questioned. The Federal Statutes requiring that our constitution and supreme statutes and the amendments thereto shall not violate the laws of the United States, nor the laws of any state, did not and does not mean that said constitution or statutes shall be void if the plaintiff in error should fail to qualify in order to do business within any particular state. In such a case the statute would not be invalid. It would simply be temporarily suspended. The State of Nebraska has no jurisdiction of the activities of the plaintiff in error except as it may undertake to qualify to do business within said state. At the time of the passage of the statute creating this plaintiff in error there was more or less misgivings on the part of the people of many states that a corporation chartered by the federal government could impose itself upon any and all of the states of the union, without their consent and could transact business regardless of state laws. To obviate any feeling of this kind the wording of this statute was so made. While it is a proper jurisdiction of the courts of the various states to pass upon the question whether the constitution and supreme statutes of this plaintiff in error are effective within such states, the final jurisdiction as to the validity of the constitution and statutes of this plaintiff in error rests with the highest court of its domicile, and that is this Honorable Court. When this Honorable Court has adjudged a supreme

statute of this plaintiff in error to be valid and binding, such decision is final. This does not prevent any state from excluding the plaintiff in error even after such decision is made, from prohibiting the plaintiff in error from transacting business within such state. The real substantial meaning of that phrase in the federal statute that the plaintiff in error shall not enact any legislation in violation of the laws of any state simply means that the plaintiff in error can not, because of its federal charter, transact business in a state where such state has by its statutes excluded it from so doing, but the defendant in error is not the state of Nebraska and can not vindicate the rights of the state. She may vindicate her own rights only. And her rights are exactly those of her decedent who held the certificate of insurance sued upon. Her rights are measured by his rights and his rights were concluded in 1913 by the judgment of a court of competent jurisdiction, and that adjudication is fully covered and protected by the federal constitution. The rights of citizens under the constitution are superior to their rights under the states whether in violation of judicially declared law, or of statutory duty. This is well illustrated by the case of *Fauntleroy v. Lum*, 210 U. S. 230. In that case a cause of action was alleged to have originated in Mississippi. The statute of Mississippi forbade the bringing of any action by reason of the facts alleged. The plaintiff, however, brought the action in the State of Missouri, instead of Mississippi, where the cause arose. He obtained judgment in Missouri. He then brought his action upon said judgment in the courts of Mississippi. The Mississippi Supreme Court (80 Miss. 737), promptly held that since by their statute said alleged cause of action was for-

bidden by their said statute, no cause of action could be alleged upon a judgment recovered in Missouri, upon the same facts; but this Honorable Court held that such question was not controlling in view of the full faith and credit clause of the Federal Constitution which was superior to any alleged rights under the statute of Mississippi which was alleged to have been violated. To the same effect was the case of *Kenney v. Supreme Lodge of the World, Loyal Order of Moose*, 252 U. S. 411. In that case the cause of action arose in the State of Illinois. A statute of Illinois expressly provided that such a cause of action could not be brought in Illinois. It, therefore, refused to sanction an action upon the judgment for said cause rendered by the courts of Alabama. This Honorable Court, however, properly reversed said judgment holding that the constitutional right was superior to the rights of said parties under and by virtue of such statutory provisions. The plaintiff in this action sought recovery on an offer of payment of the old rate after January 1, 1911. The defendant proved the enactment of a supreme statute in 1910, effective January 1, 1911, increasing the rates. Plaintiff assaulted the validity of this supreme statute on the ground that defendant did not have a representative form of government at the time the statute was enacted, as required by Nebraska statute. Defendant pleaded and introduced in evidence the pleadings and judgment in the Holt case, showing a class suit, binding plaintiff's decedent and litigating the validity of said statute and the question of the representative form of government, the judgment being favorable to the validity of said statute and also to the question of representative form of government. The courts of said State of Nebraska ut-

terly ignored said judgment, giving neither faith nor credit to it. Our constitutional rights were disregarded and judgment given against plaintiff in error in utter disregard thereof. Under Article 4, § 1, the validity of said supreme statute and its binding effect were settled and the defendant in error can not again litigate the validity of said supreme statute. We must insist, therefore, that the constitutional rights of the plaintiff in error have been overthrown and that its rights fixed by said judgment of the federal district court, affirmed by the Circuit Court of Appeals, have been disregarded and that the rights of the plaintiff in error under the federal constitution be vindicated.

Respectfully submitted,

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